> there is also meaningful evidence that competitive LECs have in many instances encountered unreasonable demands and significant delay in their efforts to obtain access to buildings. Competitive LECs complain that they are being impeded by incumbent LECs and building owners. In some instances, competitive LECs state that they have been denied access to buildings completely, or have been charged exorbitant rates for access or been subjected to unreasonable conditions. And, in others, contract negotiations have reportedly spanned upwards of eighteen months – a timeframe that is particularly problematic for a service provider in a competitive market.[77]

In addition, even when a CLEC wins rights to bring its fiber into a building, it rarely is permitted to deploy its own inside wiring. Instead, the CLEC must purchase access to inside wiring from the existing owner, usually, but not always, the ILEC. RCN has participated in trials with Verizon in New York to connect RCN loops to customers using Verizon house and riser facilities. Making such arrangements results in further delays before service to customers is activated.[78]

These delays cannot be avoided by utilizing fixed wireless alternatives, which RBOC Petitioners claim are a "quick and inexpensive transition to serving a building by fiber."[79] Fixed wireless providers must still negotiate with building owners before connecting customers located in commercial buildings,[80] and they often face resistance from building owners who are reluctant to allow equipment on their rooftops. Perhaps the most telling comment on the viability of this "quick and inexpensive" technology is that the two largest fixed wireless providers, Winstar and Teligent, have both filed for bankruptcy.

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[77] *Promotion of Competitive Networks in Local Telecommunications Markets*, WT Docket No. 99-217 et al., First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, FCC 00-366, ¶ 17 (rel. Oct. 25, 2000) (citations omitted).

[78] RCN Declaration at ¶ 12.

[79] Petition at 13.

[80] RBOC Petitioners bury their acknowledgement of building access requirements for wireless providers in a footnote on another page of the Petition. Petition at 11, n.26.

Thus, contrary to RBOC Petitioners' claims, the costs of deploying local loops and the time it takes CLECs to deploy them have not changed significantly since the FCC adopted the *UNE Remand Order*. Costs of between $10,000 and $300,000 per mile and rights-of-way and building access negotiation delays of six to twelve months or more still materially impair a CLEC's ability to deploy high capacity local loops.

C. High Capacity Loops Still Meet the Impair Test

As shown above, high capacity loops still meet the impair test. Alternatives to ILEC unbundled high capacity loops are not actually available on a ubiquitous basis. Furthermore, both the cost of deploying high capacity loops and the time it takes to deploy them could materially impair a CLEC's ability to provide service to end users. The FCC should therefore reject RBOC Petitioners' request to relax ILEC unbundling obligations by removing high capacity loops from the UNE list.

VI. CLECs Would Be Materially Impaired without Access to Unbundled Dedicated Transport

The Petition recycles most of the arguments presented to and rejected by the FCC when it decided that dedicated transport meets the impair test and must be unbundled. RBOC Petitioners once again present summary statistics instead of the wire-center-by-wire center "granularity" that the FCC found was necessary to evaluate the actual availability of alternative transport facilities. They also fail to distinguish between local and long-haul transport and repeat inapposite statistics regarding the extent of competitive fiber deployments that pass "nearby" ILEC wire centers. Finally, RBOC Petitioners add a new, but equally unconvincing, argument that the growing number of alternative collocation hotels obviates the need for access to dedicated interoffice transport. Because the "alternatives" cited by RBOC Petitioners are not substitutes for access to

ILEC interoffice transport on a wire-center-by-wire-center basis, RBOC Petitioners' arguments must be rejected.

A. Availability and Ubiquity

As described in Section V above, RBOC Petitioners' failure to document solely local transport facilities is a significant analytical error. When the RBOCs presented evidence that co-mingled local and long-haul fiber deployments in 1999, the FCC categorically rejected that data as insufficient for determining the availability of alternative local transport.[81] The FCC noted "that the 'fiber frenzy' and 'bandwidth markets' cited by the incumbent LECs *are largely limited to portions of inter-city, long-haul networks that do not ubiquitously reach the interoffice segments of the incumbent LEC's network.*"[82] Because long-haul fiber facilities are not substitutes for local transport facilities, the FCC must reject RBOC Petitioners claim that 218,000 miles of alternative fiber are "actually available" as substitutes for ILEC dedicated transport facilities.

The FCC also rejected prior ILEC attempts to show that alternative dedicated transport was available absent data that focused on individual wire centers. In the *UNE Remand Order*, although the FCC acknowledged CLEC deployment of "interoffice transport facilities along selected point-to-point routes, primarily in dense market areas," it found that "competitive transport facilities that currently exist do not interconnect *all* of an incumbent LEC's central offices," thus *per se* failing the ubiquity requirement of the impairment test.[83] The FCC rejected the evidentiary *significance* of USTA's summary statistics, finding that "only at a granular, wire center-by-wire center level does the record show the presence of competitive alternatives to the

[81] *See UNE Remand Order* at ¶ 350-51.

[82] *Id.* at 350 (emphasis added).

[83] *Id.* (emphasis added).

incumbent's interoffice transport."[84] Rather than showing that alternative transport facilities interconnect all of an ILEC's central offices, RBOC Petitioners ignore the FCC's prior finding and again absurdly claim that alternative transport need not connect each and every central office in order for it to be ubiquitously available.[85]

Instead, RBOC Petitioners allege that so-called collocation hotels, at least two per MSA in 49 of the top 50 MSAs, obviate the need for competitive transport alternatives at each ILEC wire center.[86] It is true that collocation hotels may permit CLECs to exchange traffic directly with other CLECs without going through the ILEC. However, CLECs can only use collocation hotels to bypass the ILEC and provide service directly to end users if the CLEC or an alternative provider has deployed local loop facilities that terminate in the collocation hotel. Most LEC customers – whether served by incumbents or new entrants – receive service by means of ILEC local loops terminating to ILEC wire centers. As of December 2000, ILECs still controlled 189,512,000 access lines.[87] Of the 16,397,000 access lines "provided" to end users by CLECs, at least 64.9% are effectively controlled by the ILECs because CLECs acquire those lines through resale or local loops purchased from the ILECs.[88] In order to obtain access to those loops, CLECs must collocate at the ILEC central offices where the loops terminate. In order to connect those loops to their switches, CLECs must build or purchase interoffice transport to connect their collocation arrangements to their switches. Yet RBOC Petitioners seek to deny CLECs unbun-

[84] *UNE Remand Order* at ¶ 341.

[85] Petition at 18.

[86] Petition at 5.

[87] Local Telephone Competition, Table 4.

[88] Local Telephone Competition, Table 3. Although this table shows that CLECs provide service to 35% of their end users over their own local loop facilities, the FCC questioned whether this data was accurate. *See* Local Telephone Competition at 1, n.2.

dled access to *any* dedicated transport, irrespective of whether that transport is used to connect high capacity or plain old copper loops to the CLEC's collocation space. Without the availability of alternative interoffice transport to *each* ILEC central office where CLECs provide service using unbundled local loops,[89] CLECs will have no practical access to these loops, and thus will be unable to provide service to the vast majority of telephone customers in the United States. Therefore, the deployment of collocation hotels does not alleviate CLECs' need for unbundled access to ILEC loops and transport.

RBOC Petitioners also ignore the impact their request has on enhanced extended loops ("EELs"). EELs permit CLECs such as Joint Commenters to reduce their costs of collocation by minimizing the number of central offices at which they must collocate to have access to loops. Without the availability of any dedicated interoffice transport, CLECs will no longer be able to use EELs to reach customers served by ILEC central offices in which density may not justify the cost of collocation. Because Joint Commenters use EELs to reach customers, including small and medium sized business customers in suburban markets,[90] granting RBOC Petitioners' requested relief would materially impair Joint Commenters' ability to provide service to such customers.

The fact that RBOC Petitioners have increased the number of collocation arrangements they provide to CLECs is of no significance. Numerous collocation arrangements are worthless if CLECs cannot obtain the transport necessary to connect their collocation arrangements to their switches. Even then, evidence of at least one CLEC wire center collocation that relies on a third

[89] Although Network Plus has deployed fiber to connect some of its collocation arrangements to its switches (*see* USTA Report at 10), Network Plus still relies on ILECs for the majority of transport between its collocation arrangements and its switches. Network Plus Declaration at ¶ 8.

[90] Network Plus Declaration at ¶ 5; RCN Declaration at ¶ 15.

party transport provider – deemed relevant for evaluating whether ILECs should receive pricing flexibility for certain interstate access services based on the existence of competition for those services reflected by the collocated facilities – is irrelevant to the impairment analysis required under the local competition provisions of the Act.[91] RBOC Petitioners allege that 183 of 320 MSAs have at least one fiber-based collocator.[92] Aside from the fact that RBOC Petitioners do not explain what a "fiber-based collocator" is,[93] or whether RBOC Petitioners permit that fiber-based collocator to interconnect with other collocated CLECs, their statistic utterly fails to show that alternative transport is ubiquitously available. Even if one agreed that the majority of CLECs purchase unbundled local loops from only 25% of ILEC central offices, the existence of a single "fiber-based collocator" in those central offices does nothing to show the availability of alternatives in the remaining ILEC central offices. Broadslate uses high capacity transport obtained from ILECs to connect its ILEC central office collocation arrangements. In almost every case, the ILEC is the only source of these loop and transport facilities in the markets in which Broadslate operates.[94] Further, even in the rare instances where Network Plus has had access to another collocated CLEC's spare fiber, it has taken the ILEC from 76 to 120 days to make the connection necessary for Network Plus to use such alternative fiber.[95]

Finally, the FCC also previously rejected the significance of USTA evidence regarding the deployment of competitive fiber networks "nearby" incumbent LEC wire centers:

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[91] *UNE Remand Order* at ¶¶ 131-32.

[92] Petition at 4-5.

[93] In some instances, CLECs may purchase alternative transport from third-party providers that is, in reality, a resold ILEC special access service. *See* Network Plus Declaration at ¶ 9. As the FCC previously found, resold or tariffed ILEC services are given little weight in determining whether alternatives to UNEs exist. *UNE Remand Order* at ¶ 67.

[94] Broadslate Declaration at ¶ 4.

> We note that the incumbents do not explain what is meant by fiber that is "nearby." Nor do incumbents explain how having fiber "nearby" reflects the availability of ubiquitous transport alternatives.[96]

In Joint Commenters' experience, having fiber "nearby" ILEC wire centers does not guarantee the availability of alternative fiber transport. Many ILECs claim they experience capacity constraints in their manhole and riser facilities such that alternative fiber cannot be brought into ILEC central offices.[97] Furthermore, as evidenced by the Petition filed by the Coalition of Competitive Fiber Providers, even where capacity constraints do not exist, ILECs often refuse alternative fiber providers' requests to bring their fiber into ILEC central offices. As the Coalition's Petition states:

> Coalition members need to access ILEC central offices for the purpose of providing service to CLECs collocated there. However, ILECs, with the exception of Verizon in former Bell Atlantic territory, do not permit competitive fiber providers to do so. ILECs in the Collocation Remand Proceeding contend that competitive fiber providers have no right to collocate in ILEC central offices under Section 251(c)(6) because they do not interconnect with the ILEC or access the UNEs of the ILEC. ILECs do not permit CLECs generally, or competitive fiber providers in particular, to access poles, duct, conduit, or rights-of-way leading to, and in, ILEC central offices pursuant to Sections 251(b)(4) or 224(f)(1).[98]

RBOC Petitioners cannot have it both ways – they cannot refuse third party supplier access to their central offices while at the same time claiming that the existence of fiber "nearby" their central offices shows that dedicated transport alternatives are ubiquitously available. The FCC rejected such data in the *UNE Remand Order* and it should reject it again here.

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[95] Network Plus Declaration at ¶ 8.

[96] *UNE Remand Order at* ¶ 342.

[97] Network Plus Declaration at ¶ 10.

[98] *Application of Sections 251(b)(4) and 224(f)(1) of the Communications Act of 1934, as Amended, to Central Office Facilities of Incumbent Local Exchange Carriers*, Petition for Declaratory Ruling by Coalition of Competitive Fiber Providers, CC Docket 01-77 (filed March 15, 2001).

B. Cost and Timeliness

Because RBOC Petitioners fail to distinguish between fiber used for local loops and fiber used for interoffice transport, they repeat the same cost and timeliness figures they used in their loop analysis. As shown above, RBOC Petitioners' information is not accurate. If anything, their figures are even less accurate for interoffice transport because longer metro backbones and backbones necessary to connect metro to suburban markets are more likely to cross multiple permitting jurisdictions than shorter local loops, potentially increasing the time necessary to deploy alternative transport facilities. RBOC Petitioners have not shown that the costs of deploying interoffice transport and the time it takes to deploy such transport have diminished since the FCC adopted the *UNE Remand Order*.

C. Dedicated Transport Still Meets the Impair Test

As shown above, dedicated transport still meets the impair test. Alternatives to ILEC unbundled dedicated transport are not actually available on a ubiquitous basis. Furthermore, both the cost of deploying dedicated transport and the time it takes to deploy it could materially impair a CLEC's ability to provide service to end users. If neither unbundled transport nor alternative transport was available, a CLEC would be forced to purchase tariffed special access service from ILECs which would, on average, increase the CLEC's cost by a factor of five.[99] The FCC should therefore reject RBOC Petitioners' request to relax ILEC unbundling obligations by removing dedicated transport from the UNE list.

[99] *See* RCN Declaration at ¶ 18.

D. Even If Dedicated Transport Does Not Meet the Impair Test, ILECs Must Still Provide CLECs Cost-Based Transport for Interconnection

As shown above, RBOC Petitioners' impair test analysis for dedicated transport is flawed and should be rejected. However, even if the FCC were to determine that CLECs would not be impaired without unbundled access to dedicated transport in limited instances, ILECs would not be relieved of their obligation to provide cost-based transport for interconnection.

Under Section 251(c)(2) of the Act, ILECs are required to provide any requesting telecommunications carrier with interconnection that is equal in quality to that provided by the ILEC to itself on rates, terms and conditions that comply with Section 252. ILECs' unbundling duties, on the other hand, are not only subject to the pricing requirements of Section 252, but also the "necessary and impair" standards of Section 251(d)(2). Thus, while the FCC may determine that a particular element need not be unbundled, and thus need not be provided at cost-based rates, it may not change the statutory cost-based pricing standard for interconnection.

CLECs often use ILEC transport for their interconnection facilities. In order for CLECs and ILECs to exchange traffic between their respective customers, they must interconnect their networks as required by Section 251(c)(2) of the Act. The physical points at which they perform the connection are called interconnection points or points of interconnection. No other transport provider, even if they chose to do so, could match even a fraction of the coverage that an ILEC can provide and support for such interconnection facilities. RCN, for instance, purchases cost-based ILEC transport to connect its switches to the points of interconnection and other points in the ILEC network necessary for interconnection.[100] ILEC transport also connects RCN's network to ILECs' high volume end offices for the exchange of traffic originating from and termi-

[100] RCN Declaration at ¶ 17.

nating to customers served by that end office and to ILECs' operator switches, E911 switches/routers, and SS7 signaling transfer points.[101] ILECs sometimes, although not always, distinguish between pricing elements for cost-based interconnection transport and pricing elements for UNE dedicated transport. Regardless of whether they make such distinctions, because interconnection is not subject to the necessary and impair standards, ILECs must continue to provide CLECs cost-based transport for interconnection regardless of the outcome of this proceeding or any other proceeding that may reduce or eliminate ILECs' unbundling obligations.

VII. Other Factors Do Not Justify Removing Dedicated Transport and High Capacity Loops from the UNE List

RBOC Petitioners' impair test argument shows the absurdity of their fallback argument. On the one hand, RBOC Petitioners argue that CLECs are not impaired without access to high capacity loops and dedicated transport. On the other hand, RBOC Petitioners argue that these elements should not be unbundled because unbundling discourages facilities-based competition. While RBOC Petitioners' statistics are not reliable, it is clear that facilities-based competition is developing in local markets. As the attached Declarations show, Network Plus and RCN are actively investing in and deploying their own facilities notwithstanding the availability of ILEC high capacity loops and dedicated transport at cost-based rates. However, completely overbuilding ILEC networks is uneconomical and unnecessary. Captive ratepayers paid for ILEC networks and CLECs do not have the capital to overbuild in one year the public switched telephone network ("PSTN") that took the ILECs over 100 years to build. Both ILECs and CLECs benefit from the existence of the ubiquitous PSTN in that it permits them to invest in network

[101] RCN Declaration at ¶ 17.

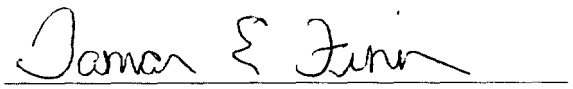
upgrades that bring new and advanced telecommunications services to consumers. However, ILECs still control the PSTN and access to over 90% of local telephone subscribers. Removing competitor access to high capacity loops and dedicated transport needed to reach 90% of the nation's telephone subscribers will squash competition and deter future competitive investment, especially in the suburban and small and medium business markets that Joint Commenters are currently serving.

RBOC Petitioners' argument that the unbundling obligations discourage them from deploying new broadband facilities is equally unconvincing. Although the BOCs claim they need regulatory relief to deploy broadband services, what they really want is regulatory help to correct their mistakes and to achieve monopolization of the market for advanced services. The BOCs slow-rolled deployment of DSL to consumers to protect more lucrative T-1 special access services revenue. Once CLECs began luring consumers away with cheaper DSL services, the BOCs finally entered the market and quickly took over. At the end of 1Q 2001, ILECs had an estimated 2.5 million DSL lines in service, 83% of the wireline DSL market. In short, history shows that competition spurs innovation and investment. By denying access to certain last mile facilities and all interoffice facilities necessary to reach ILEC last mile facilities, RBOC Petitioners seek to quash the very competition that has spurred broadband deployment to date. The FCC should deny the Petition and instead step up its efforts to enforce ILEC compliance with their unbundling obligations.

VIII. Conclusion

For the reasons specified herein, the FCC should dismiss or deny the Petition and affirm its intentions to begin its triennial UNE review in February 2002.

Respectfully submitted,



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BROADSLATE NETWORKS, INC., NETWORK PLUS, INC., RCN TELECOM SERVICES, INC., AND TELERGY, INC.

June 11, 2001

Exhibit A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Local Competition	)	
Provisions of the Telecommunications	)	
Act of 1996	)	CC Docket No. 96-98
	)	
Joint Petition of BellSouth, SBC, and	)	
Verizon for Elimination of Mandatory	)	
Unbundling of High-Capacity Loops	)	
and Dedicated Transport	)	

DECLARATION OF TOM WHITAKER
ON BEHALF OF BROADSLATE NETWORKS, INC.

I, Tom Whitaker, do hereby declare and state:

1. I am Vice President of Operations for Broadslate Networks, Inc. ("Broadslate"). I have been employed by Broadslate since October of 1999 and am responsible for the ordering and provisioning of Broadslate's high capacity loops and dedicated transport for all Broadslate markets across the territories of six different ILECs. I have personal knowledge of our business plan regarding the use of high capacity facilities and the availability of such facilities in the markets that we serve.

2. Broadslate provides advanced data services to small and medium sized businesses in underserved tier II, III, and IV sized cities across a 10 state region. The following is a sample of markets in which Broadslate currently provides service. In North Carolina, Broadslate serves Raleigh, Durham, Chapel Hill, Wake Forest, Dunn, Garner, Greensboro, Winston Salem, Hickory, Asheville, and Hendersonville. In Pennsylvania, Broadslate serves Harrisburg, Camp Hill, Carlisle, Hershey, Lancaster,

Hanover, Gettysburg, York, Allentown, Reading, Phoenixville, Downingtown, and Coatesville. In Virginia, Broadslate serves Richmond, Petersburg, Ashland, Mechanicsville, Hopewell, Salem, Roanoke, Hampton, Norfolk, Virginia Beach, Williamsburg, Newport News, Chesapeake, and Suffolk. In Tennessee, Broadslate serves Chattanooga, Knoxville, Maryville, and Memphis. In South Carolina, Broadslate serves Greenville, Spartanburg, and Greer. In Florida, Broadslate serves Jacksonville, Saint Augustine, Fernandina Beach, and Orange Park.

3. Broadslate utilizes two-wire xDSL capable loops and four-wire DS1 (high capacity) loops to deliver advanced high-speed data services. Broadslate orders such facilities to connect the customer's premises to Broadslate's collocated equipment. The four-wire DS1 loop allows Broadslate to expand it's serviceable customer base by reaching those customers that exceed xDSL loop length limitations or are served by xDSL prohibitive Digital Loop Carrier (DLC) systems. This DS1 high capacity loop provides the only cost effective option for Broadslate to reach these otherwise unreachable customers and is an integral part of our business plan. Our experience is that there is rarely, if ever, an alternative high capacity facility available to serve small to medium sized businesses in smaller tier II, III, and IV cities and it is not practical for Broadslate to build such "last mile" facilities to each customer it serves.

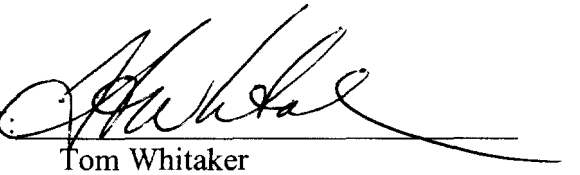
4. Broadslate's transport network is comprised of collocated equipment and leased backhaul facilities. Broadslate collocates equipment in multiple ILEC central offices in each market it serves and connects those ILEC collocation sites in a subtending arrangement to a local data center where traffic is aggregated and routed to it's destination. The local backhaul facilities that connect ILEC collocation sites are leased

from the ILEC because there is rarely an alternative provider that has facilities between ILEC central offices, especially in the smaller tier II, III, and IV sized cities that Broadslate serves. There is simply no other source for these critical network facilities, with the exception of constructing those facilities, and at this stage in Broadslate's development that is an impossible capital expenditure that could not be recovered in an acceptable timeframe for our investors.

5. Broadslate's success hinges on its ability to lease affordable high capacity "last mile" facilities from the ILEC to reach a greater percentage of potential customers that are demanding high-speed advanced data services in underserved markets. Of equal importance is Broadslate's ability to quickly and cost effectively connect hundreds of ILEC central office collocation arrangements to its network using leased high capacity transport facilities. In both cases the ILEC is almost always the only source for these facilities in the markets that Broadslate provides service.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information, knowledge, and belief.

DATED: 6/8/01

BY: 

Tom Whitaker
Vice President of Operations

Exhibit B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Joint Petition of BellSouth, SBC, and Verizon for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport	)	

DECLARATION OF LISA KORNER BUTLER
ON BEHALF OF NETWORK PLUS, INC.

I, Lisa Korner Butler, do hereby declare and state:

1. I am Vice President Regulatory and Industry Relations for Network Plus, Inc. ("Network Plus"). My business address is 41 Pacella Park Drive, Randolph, Massachusetts, 02368. As Vice President Regulatory and Industry Relations, I am responsible for regulatory policy and compliance in addition to managing the Network Plus relationships with the incumbent local exchange carriers ("ILECs"), which includes all contract negotiations.

2. Network Plus is an established integrated competitive local exchange carrier ("CLEC") and interexchange carrier headquartered in Randolph, Massachusetts. Founded in 1990, Network Plus began as a provider of long distance service. Following the 1996 Act, Network Plus expanded its service offerings and began to provide service as a facilities-based CLEC in 1998. Network Plus is now an integrated communications provider of local and long distance voice and data services. Network Plus serves over 50,000 customers, mostly small and medium-sized businesses, representing in excess of

192,000 local and 285,000 long distance access lines. Network Plus also provides service to schools and health care facilities. The majority of Network Plus' local service customers have 15 or fewer access lines.

3. Network Plus provides competitive local service in tier I and II cities and their suburbs in Connecticut, Florida, Georgia, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Pennsylvania. Some of Network Plus' smaller markets include Framingham, Holyoke, Salem, and Waltham, Massachusetts, Cranston and Newport, Rhode Island, and Concord and Portsmouth, New Hampshire.

4. Network Plus has four operational local exchange switches and four operational interexchange switches in the United States. Network Plus owns over 25,973 digital fiber miles of long-haul and metropolitan fiber optic cable in its target markets. Network Plus believes that operating its own network results in higher long-term operating margins, greater control and enhanced service quality. At this time, however, Network Plus still relies heavily on unbundled local loops, including high capacity loops, and unbundled dedicated interoffice transport purchased from ILECs to serve the majority of its customers.

5. Network Plus typically enters a local market by using the UNE Platform ("UNE-P") or, where UNE-P is not available, by reselling the services of the ILEC. Network Plus later migrates its customers to unbundled local loops connected to its switches or Network Plus' loop facilities. Network Plus uses ILEC high capacity loops and enhanced extended loops ("EELs") to provide local exchange and other services to customers in its downtown, suburban, and tier II markets.

6. Network Plus recently started marketing a new product, called Netpath Plus®. With this product, Network Plus will be able to provide customers with four or more access lines an integrated voice and data product over a single DS1. Netpath Plus® will eliminate distance restrictions inherent in digital subscriber line ("DSL") technologies typically used by small and medium businesses for broadband access, enabling Network Plus to target a larger customer base. In Network Plus' experience, alternative high capacity loops are not available in the suburban and tier II markets the Company intends to target with this product. Nor can the Company justify building its own fiber rings in suburban markets because in addition to building the ring, it would have to build 30 to 40 miles of fiber to connect the ring to Network Plus' points of presence ("POPs") in the metro area. Thus, without access to unbundled DS1 loops, Network Plus would no longer be able to offer its customers this cost-effective alternative broadband service.

7. Network Plus has 195 collocation arrangements with ILECs that permit it to use ILEC local loop facilities and EELs. Network Plus has engineered almost all of its collocation arrangements to permit it to provide service using DS0, DS1, and DS3 unbundled loops. If the FCC were to grant the RBOC Petition, some of Network Plus' sunk investment in its collocation arrangements and its plant could be stranded. In the event that Network Plus could not obtain alternative fiber to its collocation arrangement, it would incur additional expense to remove the equipment rendered unnecessary.

8. Where third-party transport is available, Network Plus prefers to use third-party fiber to connect its collocation arrangements to Network Plus' switch. However, Network Plus has only been able to secure third-party fiber connections for ***BEGIN

PROPRIETARY*** ***END PROPRIETARY*** of its 195 collocation arrangements. Where Network Plus has succeeded in obtaining third-party fiber transport, it has taken the ILEC from 76 to 120 days to make the connection necessary for Network Plus to use such alternative fiber.

9. In Network Plus' experience, however, alternative transport is not ubiquitously available. Furthermore, in some cases, Network Plus is aware that the "alternative" third-party transport it purchases is actually a resold ILEC service.

10. Even where true alternative transport exists "nearby" an ILEC central office, ILECs often claim capacity exhaust in their man holes and other riser facilities to deny Network Plus access to the third-party fiber.

11. In order to reach its suburban markets without ILEC transport, Network Plus would have to build or purchase 30 to 40 miles of fiber to connect its suburban collocation arrangements to it metro POPs. However, as noted above, Network Plus has not been able to obtain third-party fiber for the majority of its collocation arrangements. If the FCC granted the RBOC Petition, Network Plus would be forced, as a practical matter, to purchase ILEC special access facilities to connect its suburban collocation arrangements. Network Plus believes that special access would so substantially increase its costs as to require that Network Plus discontinue providing service to such customers altogether. Thus the RBOC Petition could effectively quash competition in suburban markets.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information, knowledge, and belief.

DATED: 6/11/01

BY: Lisa Korner Butler
Lisa Korner Butler
Vice President Regulatory and
Industry Relations

Exhibit C

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Local Competition	)	
Provisions of the Telecommunications	)	
Act of 1996	)	CC Docket No. 96-98
	)	
Joint Petition of BellSouth, SBC, and	)	
Verizon for Elimination of Mandatory	)	
Unbundling of High-Capacity Loops	)	
and Dedicated Transport	)	

DECLARATION OF JOSEPH KAHL
ON BEHALF OF RCN TELECOM SERVICES, INC.

I, Joseph Kahl, do hereby declare and state:

1. I am Director of Regulatory Affairs for RCN Telecom Services, Inc. ("RCN") and I have been employed at RCN for over four years. My business address is 105 Carnegie Center, Princeton, New Jersey, 08540. I am responsible for all regulatory matters including participation and filing comments in federal and state regulatory proceedings, obtaining and maintaining state telephone certifications for local and long distance services, all company tariff and compliance filings, negotiating interconnection agreements with other local exchange companies, and presenting and following through in addressing company business concerns with appropriate commission staff. I have a Bachelor of Arts Degree in Accounting, with a minor in Economics, and twelve years of experience in the communications field.

2. I have reviewed the Joint Petition of BellSouth, SBC, and Verizon for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport ("RBOC Petition")

filed on April 5, 2001. I am submitting this Declaration in support of RCN's comments in opposition to the RBOC Petition.

3. RCN's parent corporation, RCN Corporation (Nasdaq: RCNC), is the nation's first and largest facilities-based competitive provider of bundled phone, cable and high speed Internet services delivered over its own fiber-optic local network to consumers in the most densely populated markets in the U.S. RCNC has more than one million customer connections and provides service in the Boston, New York, Philadelphia, Lehigh Valley, Chicago, San Francisco, Los Angeles and Washington D.C. metropolitan markets.

4. RCNC, through its subsidiaries, including RCN, and partnerships, provides its competitive services in cities and suburbs of the metropolitan areas it serves. Besides providing service in the New York, Philadelphia, Chicago, San Francisco and Los Angeles metropolitan areas, RCN also provides service in the Lehigh Valley region, including Allentown, Easton, and Bethlehem in Pennsylvania.

5. RCNC's Megaband(TM) Network is a unique broadband fiber-optic platform capable of offering a full suite of communications services – including fully featured voice, video and high-speed Internet – to residential customers. The network employs SONET ring backbone architecture, and localized nodes built to ensure RCNC's state-of-the-art fiber optics travel to within 900 feet of RCNC customers, with fewer electronics and lower maintenance costs than existing local networks. RCNC's high-capacity local fiber-optic networks target densely populated areas comprising 44% of the U.S. residential communications market spread over just 6% of its geography. RCN also provides service to some commercial customers in its target markets, including health, educational, financial, and technology enterprises.